

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TENNESSEE
WESTERN DIVISION

GLENDAGLINSEY,)	
)	
Plaintiff,)	
)	
v.)	
)	No. 05-2214 Ma/V
LOWELL DUKE, ANTHONY MORRIS, and)	
CITY OF MEMPHIS,)	
)	
Defendants.)	
)	

ORDER DENYING PLAINTIFF'S MOTION FOR ENTRY OF DEFAULT JUDGMENT

Before the court is Plaintiff Glenda Glinsey's ("Glinsey") Motion for Entry of a Default Judgment as to Lowell Duke and Anthony Morris, filed on October 4, 2005. Glinsey seeks the entry of a default judgment under Fed. R. Civ. P. 55(a). Defendants City of Memphis ("the City"), Lowell Duke ("Duke"), in his official capacity, and Anthony Morris ("Morris"), in his official capacity,¹ filed a response on October 11, 2005. For the following reasons, Glinsey's motion is DENIED.

Glinsey seeks entry of a default judgment against Duke and Morris, in their individual capacities, under Fed. R. Civ. P. 55 because, when her motion was filed, they had not filed an answer

¹ Since the response was filed, Duke and Morris have been dismissed in their official capacities, although they remain defendants in their individual capacities.

to Glinsey's amended complaint or made their initial disclosures, which were due by May 5, 2005. When Glinsey's motion for default judgment was filed, the City, Duke, and Morris were maintaining that Glinsey's complaint was insufficient to state a claim against Duke and Morris in their individual capacities. On December 13, 2005, in its Order Clarifying September 1, 2005, Order, the court found that Glinsey's amended complaint provided sufficient notice to Duke and Morris that they were being sued in their individual capacities.

On December 29, 2005, after the issue of capacity was resolved, Duke and Morris, in their individual capacities, filed an answer to Glinsey's amended complaint. At a status and scheduling conference held before the court on January 10, 2006, the court reset the deadline for Defendants' initial disclosures to January 24, 2006. Therefore, Glinsey's Motion for Entry of a Default Judgment as to Lowell Duke and Anthony Morris is DENIED as moot.

So ordered this 13th day of January 2006.

s/Samuel H. Mays, Jr.

SAMUEL H. MAYS, JR.

UNITED STATES DISTRICT JUDGE